

IDENTIFICATION OF POTENTIAL STATE AND LOCAL ARARS FOR THE LANDSBURG MINE SITE

Requirements	Applicable or Relevant & Appropriate	Comment
STATE ARARs		
Model Toxics Control Act Ch. 70.105D RCW	Applicable	<p>MTCA is the key governmental regulation governing the conduct of the overall investigation and cleanup process for the site and is therefore applicable. MTCA describes the requirements for selecting cleanup actions, preferred technologies, policies for use of permanent solutions, the time frame for cleanup, and the process for making decisions. The regulation specifies that all cleanup actions be protective of human health, comply with all applicable state and federal regulations, and provide for appropriate compliance monitoring.</p> <p>Specific criteria for the various cleanup methods are presented in the MTCA regulations. The MTCA regulations specify that cleanup actions utilize permanent solutions to the maximum extent practicable. Although MTCA identifies a hierarchy of preferred technologies that should be evaluated for use in the cleanup action, cost may also be a factor in determining points of compliance and selection of cleanup actions. For example, if the cost of cleanup action is substantial and disproportionate to the incremental increase in protection compared to a lesser preferred cleanup action, the less preferred action may be selected. Generally, technologies that recycle or re-use materials are preferred most, followed by methods that destroy or detoxify hazardous substances, and cleanup methods that may leave contaminants on-site.</p> <p>Recent amendments to MTCA (RCW 70.105D.090) exempt remedial actions conducted pursuant to an Agreed Order or a Consent Decree from the procedural requirements of several state laws. These include the State Clean Air Act (RCW 70.94), Solid Waste Management - Reduction and Recycling Act (RCW 70.95), Hazardous Waste Management Act (RCW 70.105), Water Pollution Control Law (RCW 90.48), Shoreline Management Act (RCW 90.58), and Construction Projects in State Waters (RCW 75.20). In addition, the exemption also applies to the procedural requirements of any laws requiring or authorizing local governmental permits or approval for the remedial action. Therefore, while substantive compliance is necessary, permits and approvals are not required for remedial actions at the site.</p>
Model Toxics Control Act Cleanup Regulations WAC 173-340	Applicable	WAC 173-340, which implement the requirements of MTCA, contains the primary regulations under which the Landsburg Mine site RI/FS process is being conducted and are therefore applicable. These regulations establish administrative processes and standards to identify, investigate and cleanup

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		facilities where hazardous substances have been released.
Regulation of Public Groundwater Ch. 90.44 RCW Water Quality Standards for Groundwater WAC 173-200	Not ARAR	The rule establishes groundwater quality standards to provide for the protection of public health and existing/future beneficial uses. This standard specifically exempts CERCLA and MTCA cleanup actions, and provides for groundwater cleanup standards at such sites to be developed under WAC 173-340-720. Therefore, WAC 173-200 is neither applicable nor relevant and appropriate to the Landsburg Mine site.
Department of Health Standards for Public Water Supplies WAC 246-290	Applicable	The rule established under WAC 246-290 defines the regulatory requirements necessary to protect consumers using public drinking water supplies. The rules are intended to conform with the federal Safe Drinking Water Act (SDWA), as amended. WAC 246-290-310 establishes maximum contaminant levels (MCLs) which define the water quality requirements for public water supplies. WAC 246-290-310 establishes both primary and secondary MCLs and identifies that enforcement of the primary standards is the Department of Health's first priority. The standards set under WAC 246-290-310 are set at the levels established under the federal SDWA. These levels are shown in Table 4-3.
Department of Game Procedures WAC 232-012	Applicable	This standard defines the requirements that the Department of Game must take to protect endangered or threatened wildlife. These requirements may be applicable if endangered or threatened wildlife are identified at the site or within Department of Natural Resources records searches.
Shoreline Management Act Guidelines WAC 173-16	Applicable	The act provides guidelines for the development of master programs regulating the use of shorelines. The substantive requirements of the Act are potentially applicable to the Landsburg Mine site if remedial activities occur within 200 ft of the Cedar River shoreline area.
State Environmental Policy Act (SEPA) Ch. 43-21C RCW SEPA Rules WAC 197-11 SEPA Procedures	Applicable	SEPA is applicable to remedial actions at the Landsburg Mine site. Ecology is the lead agency for MTCA remedial actions performed under a Consent Decree or an Agreed Order pursuant to WAC 197-11-253.

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WAC 173-802		<p>The SEPA process is triggered when a governmental action is taken on a public or private proposal. According to WAC 197-11-784, a proposal includes both regulatory decisions of agencies and actions proposed by applicants. If the proposal is not “exempt”, Ecology will require the submission of a SEPA checklist which solicits information regarding how the proposal will affect elements of the environment, such as air, water, etc.</p> <p>If the proposal is determined by Ecology to have a “probable significant adverse environmental impact”, an environmental impact statement (EIS) will be required which examines potential environmental problems that would be caused by the proposal and options for mitigation. If in Ecology’s opinion, there will be no significant adverse environmental impact, a Determination of Nonsignificance (DNS) will be issued and the SEPA process is completed without preparation of an EIS.</p> <p>Any public comment period required under SEPA must be combined with any comment period associated with the MTCA process in order to expedite and streamline public input. According to WAC 197-11-259, if Ecology makes a determination that the proposal will not have a probable significant adverse environmental impact, the DNS can be issued with the draft Cleanup Action Plan prepared pursuant to MTCA.</p>
Hazardous Waste Management Act 70.105 RCW		<p>Recent amendments to MTCA (RCW 70.105D.090) exempt cleanup actions conducted pursuant to a Consent Decree or Agreed Order from the procedural requirements of this law. The exemption does not apply to the substantive provisions, however, which still may apply depending on site conditions. Also, recent amendments to RCW 70.105 provide a conditional exemption to state-only dangerous wastes generated during a cleanup action conducted under a Consent Decree. Therefore, substantive provisions of this Act may be applicable if non-exempt dangerous wastes are generated during cleanup.</p>

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<p>Dangerous Waste Regulations WAC 173-303</p> <p>Designation of Waste WAC 173-303-070</p> <p>Requirements for Generators of Dangerous Waste WAC 173-303-170</p> <p>Closure and Post Closure WAC 173-303-610</p> <p>Releases from Regulated Units WAC 173-303-645</p>	<p>Applicable</p> <p>Applicable</p> <p>Potentially relevant and appropriate</p> <p>Potentially relevant and appropriate</p>	<p>A partial list of potentially applicable sections of the Dangerous Waste Regulations are included below.</p> <p>These requirements establish the methods and procedures to determine if solid waste requires management as dangerous waste. The substantive requirements of this section may be applicable if remedial activities involve the generation of waste.</p> <p>Substantive requirements for generators of dangerous waste established under this chapter may be applicable to remedial actions performed at the site if dangerous waste is generated.</p> <p>This section describes closure and postclosure performance standards for dangerous waste units, including requirements for plan preparation, maintenance and monitoring of waste containment systems, groundwater monitoring, deed notices, etc. Because the Landsburg Mine site stopped receiving waste materials prior to the effective date of this regulation and does not meet the definition of a regulated facility, these requirements of WAC 173-303 are not legally applicable to the site. Most of the requirements of this section are procedural, and not relevant because of the MTCA exemption for procedural requirements. Subsection 610(2), "Closure performance standard", corresponds to threshold requirements under MTCA. Therefore, the remedy selected by Ecology will satisfy this closure performance standard by definition. Some of these regulations may be relevant and appropriate, however. The most relevant portion of Section 610 is subsection (7), "Postclosure care and use of property". This subsection addresses post-closure maintenance and monitoring, including groundwater monitoring. Section (10) requires a notice in the property deed. The relevant requirements of Section 610(7) and (10) may be appropriate for the Landsburg Mine site.</p> <p>WAC 173-303-645 regulates releases from regulated units. Although the Landsburg Mine site does not meet the definition of a regulated dangerous waste unit, the requirements of this section are relevant. Portions of this section may be appropriate, such as:</p>
		<ol style="list-style-type: none"> 1. Groundwater protection standard, 645(3) 2. Compliance period, 645(7) 3. General groundwater monitoring requirements, 645(8) 4. Detection monitoring program, 645(9) 5. Compliance monitoring program, 645(10).

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Landfills WAC 173-303-665	Potentially relevant and appropriate	<p>The relevance and appropriateness of these sections will be considered in the preparation and review of the Compliance Monitoring Program required under MTCA.</p> <p>Design standards specific to dangerous waste landfills are found in WAC 173-303-665. Of these, liner and operating standards are not relevant to closure of the Landsburg Mine site. Potential leachate will be addressed by groundwater monitoring pursuant to the approved MTCA Compliance Monitoring Program. Section 665(6) addresses closure and post-closure care, which is relevant to this site. The design standard for the final cover, which may or may not be appropriate for this site, consists of the following [WAC 173-303-665(6)(a)]:</p> <p>“(i) Provide for long-term minimization of migration of liquids through the closed landfill (ii) Function with minimum maintenance; (iii) Promote drainage and minimize erosion or abrasion of the cover; (iv) Accommodate settling and subsidence so that the cover’s integrity is maintained; and (v) Have a permeability less than or equal to the permeability of any bottom liner system or natural subsoils present.”</p>
Solid Waste Management, Recovery, and Recycling Act Ch. 70.95 RCW Minimum Functional Standards (MFS) for Solid Waste Handling WAC 173-304	Applicable	<p>Recent amendments to MTCA (RCW 70.105D.090) exempt cleanup actions conducted pursuant to a Consent Decree or Agreed Order from the procedural requirements of this law. The exemption does not apply to the substantive provisions, however, which still may apply depending on site conditions.</p> <p>MTCA regulations [WAC 173-340-710(b)(c)] specify that WAC 173-304 contains the "minimum requirements" for landfill closure conducted as a MTCA cleanup action.</p>
General Closure and Post-Closure Requirements, Landfilling Standards WAC 173-304-407, -460 Criteria for Municipal Solid Waste Landfills (MSWLF) WAC 173-351	Applicable Not ARAR	<p>WAC 173-304-460 capping requirements include a minimum 2 ft. thick clay layer having a permeability of 1×10^{-6} or lower. Alternately, a synthetic liner material may be substituted for the soil layer. The MFS represent the primary capping criteria to consider in this FS.</p> <p>The purpose of the regulation is to establish minimum state-wide standards for all municipal solid waste landfill (MSWLF) units. This regulation implements rulemaking by the EPA under the authority of Subtitle D of RCRA, as amended in 1984. The criteria apply only to new and existing MSWLF. MSWLF units that stopped receiving waste prior to October 9, 1991 are subject to closure and post-</p>

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		closure rules under chapter 173-304. Because the Landsburg Mine site is not a MSWLF and stopped receiving waste prior to the applicable date, these rules are not ARAR to the site. All other solid waste disposal facilities that are not regulated under Subtitle C of RCRA (and the State of Washington equivalent - WAC 173-303) are subject to the criteria under WAC 173-304 "Minimum Functional Standards for Solid Waste Handling."
<p>Water Well Construction CH. 18.104 RCW</p> <p>Minimum Standards for Construction and Maintenance of Water Wells WAC 173-160</p>	Applicable	These requirements are applicable to remedial actions that include construction of wells used for groundwater extraction, monitoring, or injection of treated groundwater or wastes. These requirements also include standards for well abandonment.
<p>Water Pollution Control/Water Resources Act Ch. 90.48 RCW/Ch. 90.54 RCW</p> <p>Surface Water Quality Standards WAC 173-201A</p>	Applicable	<p>Recent amendments to MTCA (RCW 70.105D.090) exempt cleanup actions conducted pursuant to a Consent Decree or Agreed Order from the procedural requirements of this law. The exemption does not apply to the substantive provisions, however, which still may apply depending on site conditions.</p> <p>Since water quality standards are set at levels protective of aquatic life, these standards are only applicable to surface waters at the site which either support or have the potential to support aquatic life. Groundwater beneath the site may discharge to the Cedar River, therefore surface water quality criteria established under this chapter may potentially be applicable to the groundwater at the point of discharge to the river. Ecology has announced anticipated rule development for the purpose of adopting risk-based numeric limits for protection of public health as required by the federal CWA (WSR-18-095). Other proposed changes to the standard were also announced in WSR-94-16-056. Table 4-4 lists criteria for selected compounds.</p>
<p>State Waste Discharge Program WAC 173-216</p> <p>National Pollution Discharge Elimination System Permit Program WAC 173-220</p>	<p>Applicable</p> <p>Applicable</p>	<p>Requirements of this program may be applicable to remedial actions that include discharges to the ground. The chapter implements a permit system applicable to industrial and commercial operations that discharge to the groundwater, surface waters, or municipal sewerage systems. Specific discharges prohibited under the program are identified. Cleanup actions conducted under a Consent Decree or Agreed Order are exempt, however, from procedural requirement (permits).</p> <p>Establishes a state permit program pursuant to the national NPDES system. Substantive sections of the regulation may be applicable to remedial alternatives that involves discharges to surface waters. Discharges may include site run-off, spillage, leaks, sludge, or treated waste disposal.</p>

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Washington Clean Air Act Ch. 70.94 RCW and Ch. 43.21A RCW		Recent amendments to MTCA (RCW 70.105D.090) exempt cleanup actions conducted pursuant to a Consent Decree or Agreed Order from the procedural requirements of this law. The exemption does not apply to the substantive provisions, however, which still may apply depending on site conditions.
General Regulations for Air Pollution Sources WAC 173-400	Applicable	Substantive standards established for the control and prevention of air pollution under this regulation may be applicable to remedial actions proposed for the operable unit. The regulation requires that all sources of air contaminants meet emission standards for visible, particulate, fugitive, odors, and hazardous air emissions. The Puget Sound Air Pollution Control Agency enforces and administers these requirements in the greater Puget Sound Area. Refer to discussion under PSAPCA.
Controls for New Sources of Air Pollution WAC 173-460	Applicable	This standard requires that new sources of air emissions provide emission estimates for toxic air contaminants listed in the regulation. The standard requires that emissions be quantified and used in risk modeling to evaluate ambient impacts and establish acceptable source impact levels. These standards are applicable since the regulation specifically lists sites subject to MTCA actions.
Puget Sound Air Pollution Control Agency (PSAPCA)		PSAPCA, activated under the Washington State Clean Air Act (RCW 70.94) has jurisdiction over regulation and control of the emission of air contaminants and the requirements of state and federal Clean Air Acts from all sources in the King, Pierce, Snohomish and Kitsap county areas.
Regulation 1	Applicable	Regulation 1 establishes the general requirements and programs the agency uses to administer its regulatory program. Substantive aspects of this regulation may be applicable to the mine site if remediation activities may result in the emission of air contaminants regulated by the agency. Specific requirements of the program concern: registration of sources, new source review, emission standards and ambient air quality standards and control methods required.
Regulation 2	Not ARAR	Regulation 2 provides for the control of photochemically reactive volatile organic compounds (VOCs), precursors to low atmospheric ozone formation, in order to meet National Ambient Air Quality Standards (NAAQS) for Ozone. The regulation identifies specific source categories regulated under the standard. Regulation 2 is not ARAR since the Landsburg Mine site does not meet the definition of any of the sources regulated nor are VOCs anticipated to be released in quantities significant for the standard to be considered relevant and appropriate.
Regulation 3	Applicable	Regulation 3 controls the emission of toxic air contaminants, sources of, and development of strategies to protect public health and the environment from impacts of toxic air contaminants and may be applicable if toxic air contaminants are emitted. Ambient air concentrations for toxic air contaminants

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		are established by PSAPCA for the Puget Sound Region. Best Available Control Technology (BACT) is required for sources that emit toxic air contaminants. Toxic air contaminants are listed in Appendix A of Regulation 3 or listed in Subpart D, 40 CFR 372. Appendix A also identifies Acceptable Source Impact Levels (ASILs) for toxic air contaminants. Specific procedures for asbestos emission control are also addressed under Regulation 3.
<p>Surface Mined-Land Reclamation Act Ch. 78.44 RCW</p> <p>Surface Mined-Land Reclamation WAC 332-18</p>	Not ARAR	These regulations specify reclamation requirements for surface mines in the State of Washington. However, since the Landsburg Mine is an underground Mine, and involved coal mining, which is specifically exempted in the Act, the requirements of these regulations are not applicable or relevant and appropriate to closure activities conducted at the site. Primacy for regulation of coal mining in the State of Washington rests with the federal Office of Surface Mining.
LOCAL ARARs^a		
King Co. Zoning Code Title 21 KCC	Applicable	Substantive requirements of the County zoning ordinance are applicable to remedial actions at the Landsburg Mine site. However, remedial actions are exempt from permitting and procedural requirements under MTCA.
<p>Special Control Areas and Flood Hazard Areas Ch. 21.54 KCC</p> <p>Sensitive Areas Ordinance and Rules Ordinance 9614</p>	Applicable	Sensitive Areas in King County are defined and regulated by the Sensitive Areas Ordinance, King County Code Chapter 21.54, and its administrative rules. The locations of sensitive areas are identified in the Sensitive Areas Map folio for wetlands, streams, flood hazards, erosion hazards, landslide hazards, seismic hazards, and coal mine hazards. The Sensitive Areas Rules set forth procedures and standards to be followed when a development proposal involves a sensitive area. The main portion of the Mine site is identified in the folio as a coal mine hazard area. Other portions of the site are mapped as erosion hazard areas. Since the Mine site is included in a sensitive area, the substantive requirements of the Sensitive Areas Ordinance are applicable to remedial action at this site. However, remedial actions are exempt from procedural and permitting requirements under MTCA.
^a Under RCW 70.105D.090, cleanup actions conducted under Consent Decrees or Agreed Orders are exempt from the procedural requirements of any laws requiring or authorizing local government permits or approvals for the remedial action.		

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TABLE 4-2

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